

EXHIBIT 5

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
TYLER DIVISION**

Blue Spike, LLC,

Plaintiff,

V.

Texas Instruments, Inc. et al.,

Defendants.

Case No. 6:12-cv-499-MHS

Lead Case

Jury Trial Demanded

Declaration of Scott Moskowitz

I, Scott Moskowitz, declare as follows:

1. I am the Manager of Blue Spike LLC (“Blue Spike”), a Texas limited liability company founded in May 2012.

2. I am the co-inventor of the patents-in-suit.

3. I am domiciled at 433 S. Chilton Avenue, Unit 3, Tyler, Texas 75702.

4. Blue Spike has its headquarters and principal place of business at 1820 Shiloh Road, Suite 1201C, Tyler, Texas 75703. Tyler, Texas has been

Blue Spike's headquarters, principal place of business, and sole operational location since its foundation. Blue Spike offers and sells products.

5. I am a committee member of Tech4Tyler, an organization that is committed to bringing more high tech jobs to Tyler, Texas. Blue Spike leases computer server space in downtown Tyler, maintains all company documents in Tyler, and has its sources of proof in Tyler. Blue Spike is a member of the Tyler Chamber of Commerce, and its CEO is a member of the Greater East Texas IT Professionals. Blue Spike has also sponsored the Tyler Mini Maker Faire.

6. Blue Spike has no offices, no employees, no customers, and no other meaningful contacts in California, Massachusetts, New Jersey, New York, or West Virginia.

7. The members of Blue Spike's litigation team now reside in Tyler, Texas. I have never traveled to California to meet with any members of Blue Spike's legal team even when they previously resided in California. In fact, I have not traveled to California for more than a decade since I became disabled.

8. Blue Spike has not asserted the patents-in-suit in California. Blue Spike has asserted the patents-in-suit against companies conducting sufficient business in Texas to warrant jurisdiction.

9. Blue Spike has not issued an exclusive license to any company, much less one incorporated in California or whose principal place of business is located in California.

10. Blue Spike has not entered into a license agreement with RPX Corporation.

11. Blue Spike plans to call witnesses from Texas, including me.

12. Litigating this action in California, Massachusetts, New Jersey, New York or West Virginia would be very difficult for me due to my medical condition. I suffer from a rare condition known as chronic inguinal neuropathy, which is characterized by a sharp, shooting pain that originates from the area located near the front hip (called "the anterior superior iliac spine") and radiates through the groin, thigh, and genitalia.

13. I have received four unsuccessful inguinal hernia surgeries: one per year in 2006, 2007, 2008, and 2009.

14. I currently receive an experimental pain-management treatment every 10-12 weeks in which a 22-gauge, 10-centimeter-long needle is utilized to provide targeted electronic pulses to three nerves on my left side and three on my right side. My next treatment is Tuesday, Feb. 4, 2014.

15. These treatments do not remove or eliminate my pain but only manage it so that I can function on a limited basis.

16. Given the intense pain caused by my condition and given the risks of bleeding and infection, my condition is severely disabling.

17. Due to those risks, I have been advised by my treating physician, Dr. Steven W. Unger, that traveling by plane or car for long durations of time, could be life threatening.

18. Due to my disability, litigating this action in one of these forums would be extremely inconvenient, expensive, and burdensome for Blue Spike and me.

19. As a small business owner, even if my health were better I wouldn't be able to handle enforcing my patent rights in multiple venues and successfully run my active software business. I prefer the accused infringers simply agree to stop infringing my inventions or at least pay a reasonable royalty for continuing to do so, but some companies, like people, seem to continue to trespass on your rights until you stand up for yourself.

I declare, on January 17, 2014, in Smith County, State of Texas and under penalty of perjury under the laws of the United States, that the statements made in this declaration are true and correct.


Scott Moskowitz